

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Keith L. Hoffler, #229956,)
Plaintiff,) Civil Action No. 6:05-2113-CMC-WMC
vs.)
Curtis Bufford; R. Jones; and)
Aramark Food Service Corporation,)
Defendants.)

)

REPORT OF MAGISTRATE JUDGE

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On December 22, 2005, defendant Aramark filed a motion to dismiss. On December 27, 2005, defendants Bufford and Jones filed a motion for summary judgment. On December 29, 2005, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately.

On January 13, 2006, the plaintiff filed a motion for appointment of counsel. By order of this court filed February 6, 2006, the plaintiff's motion was denied and he was given through March 1, 2006, to file his response to the motions to dismiss and for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be subject to dismissal for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution

pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

s/William M. Catoe
United States Magistrate Judge

March 3, 2006

Greenville, South Carolina